

Appendix 2

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HARRIET BELL, individually)	
and on behalf of all similarly situated)	
persons,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	1:06-CV-1993-CC
vs.)	
)	
CALLAWAY PARTNERS, LLC)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	

AFFIDAVIT OF DEBORAH ERICKSON

I, DEBORAH ERICKSON, hereby depose and say as follows:

1. I am over eighteen years of age. The information contained in this affidavit is based on my personal knowledge, and it is based on my review of business records that are made at or near the time of the relevant events and that are kept in the course of Callaway Partner, LLC's ("Callaway") regularly conducted business activities, because it is Callaway's regular business practice to keep such records, including payroll registers and time sheets.

2. I am employed as Vice President of Finance and Administration for Callaway.

3. Derk Allison, Harriet Bell, James Cook, John Lee and Sandra Morman were paid on a salary basis throughout their employment with Callaway on the HealthSouth Project. As part of their compensation, Allison, Bell, Cook, Lee and Morman regularly received a predetermined salary on a weekly basis.

4. Callaway provided Allison, Bell, Cook, Lee and Morman with paid time off ("PTO") to be used for vacation, sickness, or other personal reasons. PTO accrued according to Callaway's policy.

5. During Allison's, Bell's, Cook's, Lee's and Morman's employment, there were specific weeks in which they were absent from work one or more full days during the workweek due to personal reasons or sickness. When this occurred, Callaway paid Allison, Bell, Cook, Lee and Morman a proportionate part of their predetermined salary for the days they actually worked. They could request to use PTO for the full days they chose not to work during a workweek. Alternatively, or if Allison, Bell, Cook, Lee and Morman had exhausted their PTO, Callaway deducted the daily equivalent of their predetermined weekly salary for the days they did not work. For example, if they had no PTO available, worked four days and absented themselves from work for one full day, Callaway deducted one-fifth of their weekly predetermined salary from their pay and paid them for the four days they actually worked.

6. Callaway did not pay Allison, Bell, Cook, Lee and Morman for any workweek in which they performed no work, unless they requested PTO and it was available.

7. Payroll registers and time sheets reveal the following information about Allison, Bell, Cook, Lee and Morman:

8. Bell was paid her predetermined weekly salary for the following weeks: 4/12/04, 4/18/04, 4/25/04, 5/2/04, 5/9/04, 5/16/04, 5/23/04, 5/30/04, 6/6/04, 6/13/04, 6/20/04, 6/27/04, 7/4/04, 7/11/04, 7/18/04, 7/25/04, 8/1/04, 8/8/04, 8/15/04, 8/22/04, 8/29/04, 9/5/04, 9/26/04, 10/3/04, 10/10/04, 10/17/04, 11/7/04, 11/14/04, 11/21/04, 12/5/04, 12/12/04, 12/19/04, 12/26/04, 1/2/05, 1/9/05, 1/16/05, 1/23/05, 1/30/05, 2/6/05, 2/20/05, 2/27/05, 3/6/05, 3/13/05, 3/20/05, 3/27/05, 4/3/05, 4/10/05, 4/17/05, 4/24/05, 5/1/05, 5/15/05, 5/22/05, 5/29/05, 6/5/05, 6/12/05, 6/19/05, 6/26/05, 7/10/05, 7/17/05, 7/24/05, 7/31/05, 8/7/05, 8/14/05, 8/21/05, 9/4/05, 9/18/05, 9/25/05, 10/9/05, 10/16/05, 10/23/05, 10/30/05, 11/6/05, 11/13/05, 11/20/05, 11/27/05, 12/4/05, 12/11/05, 12/18/05, 12/25/05, 1/29/06, 2/5/06, 2/12/06, 2/19/06, 2/26/06, 3/5/06, 3/12/06, and 3/19/06.

9. Callaway paid Bell a proportionate part of her predetermined salary for the days she actually worked during the following weeks as explained below:¹

Week Ending Date	Salary Paid	Explanation
9/12/04	\$960	Bell worked 0 days this week. Callaway was not required to pay Bell for the workweek because she performed no work. She listed 3 days as PTO. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$960 for 3 PTO days, 9/7, 9/8 & 9/9.
9/19/04	\$1,280	Bell only worked 2 days this week.
10/24/04	\$960	Bell worked 3 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$960 for 3 days worked. Callaway deducted the daily equivalent of Bell's predetermined weekly salary (two-fifths of \$1600 or \$640) for the two full days Bell absented herself from work.
10/31/04	\$960	Bell worked 3 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$960 for 3 days worked. Callaway deducted the daily equivalent of Bell's predetermined weekly salary (two-fifths of \$1600 or \$640) for the two full days Bell absented herself from work.
11/28/04	\$640	Bell worked 0 days this week. Callaway was not required to pay Bell for the workweek because she performed no work. She listed 2 days as PTO. Bell's \$1,600 predetermined weekly salary for 5 working days equals

¹ Bell's payroll registers and certain timesheets are attached at Exhibit A.

Week Ending Date	Salary Paid	Explanation
		\$320 per day. Therefore, Bell was paid \$640 for 2 PTO days, 11/22 & 11/23.
2/13/05	\$0	Bell worked 0 days this week. Callaway was not required to pay Bell for the workweek because she performed no work.
5/8/05	\$1,280	Bell worked 4 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Bell's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Bell absented herself from work.
7/3/05	\$1,280	Bell worked 4 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Bell's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Bell absented herself from work.
8/28/05	\$1,280	Bell worked 4 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Bell's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Bell absented herself from work.
9/11/05	\$640	Bell worked 0 days this week. Callaway was not required to pay Bell for the workweek because she performed no work. She listed 2 days as PTO. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$640 for 2 PTO days, 9/6 & 9/7.

Week Ending Date	Salary Paid	Explanation
10/2/05	\$1,280	Bell worked 4 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Bell's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Bell absented herself from work.
1/1/06	\$640 \$320	Bell worked 2 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$640 for 2 days worked. She was paid for \$320 for 1 Holiday, 12/26. Callaway deducted the daily equivalent of Bell's predetermined weekly salary (two-fifths of \$1600 or \$640) for the two full days Bell absented herself from work.
2/26/06	\$1,600	Bell worked 5 days this week. Bell's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Bell was paid \$1,600 for 5 days worked. There is a deduction of \$737.72 that reflects a reversal of the prior week's expense reimbursement in error, plus Callaway paid the corrected amount for a two week period.

10. Allison was paid his predetermined weekly salary for the following weeks: 5/23/04, 5/30/04, 6/6/04, 6/13/04, 6/20/04, 6/27/04, 7/4/04, 7/11/04, 7/18/04, 7/25/04, 8/1/04, 8/8/04, 8/15/04, 8/22/04, 8/29/04, 9/5/04, 9/12/04, 10/24/04, 10/31/04, 11/7/04, 11/14/04, 11/21/04, 11/28/04, 12/5/04, 12/12/04, 12/19/04, 12/26/04, 1/9/05, 1/16/05, 1/23/05, 1/30/05, 2/6/05, 2/13/05, 2/20/05,

2/27/05, 3/6/05, 3/13/05, 3/20/05, 3/27/05, 4/3/05, 4/10/05, 4/17/05, 4/24/05, 5/1/05, 5/8/05, 5/15/05, 5/22/05, 5/29/05, 6/5/05, 6/12/05, 6/19/05, 6/26/05, 7/3/05, 7/10/05, 7/24/05, 7/31/05, 8/7/05, 8/14/05, 8/21/05, 8/28/05, 9/11/05, 9/18/05, 9/25/05, 10/2/05, 10/9/05, 10/16/05, 10/30/05, 11/6/05, 11/13/05, 11/20/05, 11/27/05, 12/4/05, 12/11/05, 12/18/05, 12/25/05, 1/8/06, 1/15/06, 2/5/06, 2/12/06, 2/19/06, 2/26/06, 3/5/06, 3/12/06, 3/19/06, 3/26/06, 4/2/06, 4/9/06, and 4/30/06.

11. Callaway paid Allison a proportionate part of his predetermined salary for the days he actually worked during the following weeks as explained below:²

Week Ending Date	Salary Paid	Explanation
9/4/05	\$1,280	Allison worked 4 days this week. Allison's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Allison was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Allison's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Allison absented himself from work.
10/23/05	\$1,280	Allison worked 4 days this week. Allison's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Allison was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent

² Allison's payroll registers and certain timesheets are attached at Exhibit B.

Week Ending Date	Salary Paid	Explanation
		of Allison's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Allison absented himself from work.
1/22/06	\$1,280	Allison worked 4 days this week. Allison's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Allison was paid \$1,280 for 4 days worked. Allison went home sick on 1/19 (Thursday), so he only worked a partial day, but was paid for the entire day. Allison did not work on 1/20 (Friday) indicating on his timesheet he was sick. Callaway deducted the daily equivalent of Allison's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Allison absented himself from work.
4/16/06	\$1,280 \$160	Allison worked 4 days this week. Allison's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Allison was paid \$1,280 for 4 days worked. He was paid \$160 for PTO, 4/14. Callaway deducted the daily equivalent of Allison's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Allison absented himself from work and offset the deduction by paying the requested 4 hours of PTO.
4/23/06	\$1,280 \$160	Allison worked 4 days this week. Allison's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Allison was paid \$1,280 for 4 days worked. He was paid \$160 for PTO, 4/21. Callaway deducted the daily equivalent of Allison's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Allison absented himself from work and offset the deduction by paying the

Week Ending Date	Salary Paid	Explanation
		requested 4 hours of PTO.

12. Cook was paid his predetermined weekly salary for the following weeks: 3/14/04, 3/21/04, 3/28/04, 4/4/04, 4/11/04, 4/18/04, 4/25/04, 5/2/04, 5/9/04, 5/16/04, 5/23/04, 5/30/04, 6/6/04/13/04, 6/20/04, 6/27/04, 7/4/04, 7/11/04, 7/18/04, 7/25/04, 8/1/04, 8/15/04, 8/22/04, 8/29/04, 9/5/04, 9/12/04, 9/19/04, 9/26/04, 10/3/04, 10/10/04, 10/17/04, 10/24/04, 10/31/04, 11/7/04, 11/14/04, 11/21/04, 12/12/04, 12/19/04, 1/9/05, 1/16/05, 1/30/05, 2/6/05, 2/13/05, 2/20/05, 2/27/05, 3/6/05, 3/13/05, 3/20/05, 3/27/05, 4/3/05, 4/10/05, 4/17/05, 4/24/05, 5/1/05, 5/8/05, 5/22/05, 5/29/05, 6/5/05, 6/12/05, 6/19/05, 7/3/05, 7/10/05, 7/17/05, 7/24/05, 7/31/05, 8/7/05, 8/14/05, 8/21/05, 8/28/05, 9/11/05, 9/18/05, 10/2/05, 10/9/05, 12/4/05, 12/11/05, 12/18/05, 1/8/06, 2/5/06, 2/12/06, 3/12/06, 3/26/06, 4/2/06, 4/9/06, and 4/16/06.

13. Callaway paid Cook a proportionate part of his predetermined salary for the days he actually worked during the following weeks as explained below:³

³ Cook's payroll registers and certain timesheets are attached at Exhibit C.

Week Ending Date	Salary Paid	Explanation
8/8/04	\$980	Cook worked 2 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day.
11/28/04	\$1,280	Cook worked 0 days this week. Callaway was not required to pay Cook for the workweek because he performed no work. He listed 4 days as PTO. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 PTO days, 11/22, 11/23, 11/24 & 11/26.
12/5/04	\$960	Cook worked 5 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. According to an email he sent to me (Deborah Erickson) he misreported his time and submitted only 3 days worked and therefore was paid for only 3 full days. He later submitted a timesheet for 5 days worked and was paid additional compensation, with the adjustment made the following pay period.
12/26/04	\$960 \$320	Cook worked 3 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$960 for 3 days worked. He was paid \$320 for 1 Holiday, 12/24. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Allison absented himself from work.
1/23/05	\$960	Cook worked 3 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$960 for 3 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (two-fifths of \$1600 or \$640) for the two full days Cook absented

Week Ending Date	Salary Paid	Explanation
		himself from work.
5/15/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
6/26/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
9/4/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
9/25/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.

Week Ending Date	Salary Paid	Explanation
10/16/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
10/23/05	\$960	Cook would have worked 3 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$960 for 3 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (two-fifths of \$1600 or \$640) for the two full days Cook absented himself from work.
10/30/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
11/6/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
11/13/05	\$1,280	Cook would have worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280

Week Ending Date	Salary Paid	Explanation
		for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
11/20/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
12/25/05	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
1/15/06	\$640	Cook worked 2 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 2 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (three-fifths of \$1600 or \$960) for the three full days Cook absented himself from work.
1/22/06	\$640	Cook worked 2 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 2 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (three-fifths of \$1600 or \$960) for the three full days Cook absented

Week Ending Date	Salary Paid	Explanation
		himself from work.
2/19/06	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
2/26/06	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
3/5/06	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.
3/19/06	\$1,280	Cook worked 4 days this week. Cook's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Cook was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Cook's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Cook absented himself from work.

14. Lee was paid his predetermined weekly salary for the following weeks: 5/23/04, 5/30/04, 6/6/04, 6/13/04, 6/20/04, 6/27/04, 7/4/04, 7/11/04, 7/18/04, 7/25/04, 8/1/04, 8/8/04, 8/15/04, 8/22/04, 8/29/04, 9/5/04, 9/12/04, 9/19/04, 9/26/04, 10/3/04, 10/10/04, 10/17/04, 10/24/04, 10/31/04, 11/7/04, 11/14/04, 11/21/04, 12/5/04, 12/12/04, 12/19/04, 1/16/05, 1/23/05, 1/30/05, 2/6/05, 2/13/05, 2/20/05, 2/27/05, 3/6/05, 3/13/05, 3/27/05, 4/3/05, 4/10/05, 4/17/05, 4/24/05, 5/1/05, 5/8/05, 5/15/05, 5/22/05, 5/29/05, 6/5/05, 6/12/05, 6/19/05, 6/26/05, 7/3/05, 7/10/05, 7/24/05, 7/31/05, 8/7/05, 8/14/05, 8/21/05, 8/28/05, 9/4/05, 9/11/05, 9/18/05, 9/25/05, 10/2/05, 10/9/05, 10/16/05, 10/23/05, 10/30/05, 11/6/05, 11/13/05, 11/20/05, 12/4/05, 12/11/05, 12/18/05, 12/25/05, 1/6/06, 1/15/06, 1/22/06, 2/5/06, 2/12/06, 2/19/06, 2/26/06, 3/19/06, 3/26/06, 4/2/06, and 4/19/06.

15. Callaway paid Lee a proportionate part of his predetermined salary for the days he actually worked during the following weeks as explained below:⁴

Week Ending Date	Salary Paid	Explanation
12/26/04	\$1,280	Lee worked 4 days this week. Lee's \$1,600 predetermined weekly salary for 5 working days equals

⁴ Lee's payroll registers and certain timesheets are attached at Exhibit D.

Week Ending Date	Salary Paid	Explanation
	\$320	\$320 per day. Therefore, Lee was paid \$1,280 for 4 days worked. He was paid \$320 for 1 Holiday, 12/24.
1/9/05	\$1,280	Lee would have worked 4 days this week. Lee's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Lee was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Lee's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Lee absented himself from work.
3/20/05	\$1,280	Lee worked 4 days this week. Lee's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Lee was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Lee's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Lee absented himself from work.
7/17/05	\$1,280	Lee would have worked 4 days this week. Lee's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Lee was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Lee's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Lee absented himself from work.
3/5/06	\$1,280	Lee would have worked 4 days this week. Lee's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Lee was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Lee's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Lee absented himself from work.

Week Ending Date	Salary Paid	Explanation
3/12/06	\$1,280	Lee worked 4 days this week. Lee's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Lee was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Lee's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Lee absented himself from work.
4/9/06	\$1,280	Lee would have worked 4 days this week. Lee's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Lee was paid \$1,280 for 4 days worked. Callaway deducted the daily equivalent of Lee's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Lee absented himself from work.

16. Morman was paid her predetermined weekly salary for the following weeks: 9/5/04, 9/12/04, 9/19/04, 10/3/04, 10/10/04, 10/17/04, 10/24/04, 10/31/04, 11/7/04, 11/14/04, 11/21/04, 12/5/04, 12/12/04, 12/19/04, 1/9/05, 1/16/05, 1/23/05, 1/30/05, 2/6/05, 2/13/05, 2/20/05, 2/27/05, 3/6/05, 3/13/05, 3/20/05, 3/27/05, 4/3/05, 4/24/05, 5/8/05, 5/15/05, 5/22/05, 5/29/05, 6/5/05, 6/12/05, 6/19/05, 6/26/05, 7/3/05, 7/10/05, 7/17/05, 7/24/05, 8/7/05, 8/14/05, 10/16/05, 10/23/05, 10/30/05, 11/6/05, 11/13/05, 11/20/05, 11/27/05, 12/4/05, 12/11/05, 12/25/05, 1/1/06, 1/8/06, 1/15/06, 1/22/06, 1/29/06, 2/12/06,

2/19/06, 2/26/06, 3/5/06, 3/12/06, 3/19/06, 3/26/06., 4/2/06, 4/9/06, 4/16/06, 4/23/06, 5/7/06, 5/14/06, 6/11/06, and 6/18/06.

17. Callaway paid Morman a proportionate part of her predetermined salary for the days she actually worked during the following weeks as explained below:⁵

Week Ending Date	Salary Paid	Explanation
8/29/04	\$960	Morman worked 3 days this week. Morman's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Morman was paid \$960 for 3 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (two-fifths of \$1600 or \$640) for the two full days Morman absented herself from work.
9/26/04	\$1,280	Morman worked 4 days this week. Morman's \$1,600 predetermined weekly salary for 5 working days equals \$320 per day. Therefore, Morman was paid \$1280 for 4 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (one-fifth of \$1600 or \$320) for the one full day Morman absented herself from work.
12/26/04	\$1,760 \$440	Morman worked 4 days this week. Morman's \$2,200 predetermined weekly salary (which had been increased from \$1,600) for 5 working days equals \$440 per day. Therefore, Morman was paid \$1,760 for 4 days worked. She was paid \$440 for 1 Holiday, 12/24.

⁵ Morman's payroll registers and certain timesheets are attached at Exhibit E.

Week Ending Date	Salary Paid	Explanation
1/2/05	\$440	Morman worked 0 days this week. Callaway was not required to pay Morman for the workweek because she performed no work. She listed 1 day as PTO. Morman's \$2,200 predetermined weekly salary for 5 working days equals \$440 per day. She was paid \$440 for 1 day PTO, 12/27.
4/10/05	\$1,080	Morman worked 3 days this week. Morman's \$1,800 predetermined weekly salary (which had been decreased from \$2,200) for 5 working days equals \$360 per day. Therefore, Morman was paid \$1080 for 3 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (two-fifths of \$1800 or \$720) for the two full days Morman absented herself from work.
4/17/05	\$1,440	Morman worked 4 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1440 for 4 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (one-fifth of \$1800 or \$360) for the one full day Morman absented herself from work.
5/1/05	\$1,440	Morman worked 4 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1440 for 4 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (one-fifth of \$1800 or \$360) for the one full day Morman absented herself from work.
7/31/05	\$720	Morman worked 2 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$720 for 2

Week Ending Date	Salary Paid	Explanation
	\$360	days worked. She was paid \$360 for 1 day PTO, 7/27. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (one-fifth of \$1800 or \$720) for the two full days Morman absented herself from work.
12/18/05	\$1,080	Morman worked 3 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1080 for 3 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (two-fifths of \$1800 or \$720) for the two full days Morman absented herself from work.
2/5/06	\$1,600	Morman worked 5 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. She was mistakenly paid \$1,600 instead of \$1,800 due to an inadvertent payroll error. The next pay period, her pay was corrected in the amount of \$200. Also, there is a deduction of \$1,413.93 that reflects a reversal of the prior week's expense reimbursement in error, plus Callaway paid the corrected amount for a two week period.
2/26/06	\$1,800	Morman worked 5 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1800 for 5 days worked. There is a deduction of \$1,162.57 that reflects a reversal of the prior week's overpayment of an expense reimbursement.
4/30/06	\$1,440	Morman worked 4 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1440 for 4 days worked. Callaway deducted the daily equivalent

Week Ending Date	Salary Paid	Explanation
		of Morman's predetermined weekly salary (one-fifth of \$1800 or \$360) for the one full day Morman absented herself from work.
5/21/06	\$1,440	Morman worked 4 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1440 for 4 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (one-fifth of \$1800 or \$360) for the one full day Morman absented herself from work.
5/28/06	\$1,440	Morman worked 4 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1440 for 4 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (one-fifth of \$1800 or \$360) for the one full day Morman absented herself from work.
6/4/06	\$1,080	Morman would have worked 3 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1080 for 3 days worked. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (two-fifths of \$1800 or \$720) for the two full days Morman absented herself from work.
6/25/06	\$1,080 \$258.75	Morman worked 3 days this week. Morman's \$1,800 predetermined weekly salary for 5 working days equals \$360 per day. Therefore, Morman was paid \$1080 for 3 days worked. She listed PTO for 6/19. She was paid \$258.75 for PTO, 6/19. Callaway deducted the daily equivalent of Morman's predetermined weekly salary (one-fifth of \$1800 or \$360) for the one full day

Week Ending Date	Salary Paid	Explanation
		Morman absented herself from work.

18. Callaway paid Allison, Bell, Cook, Lee and Morman for some holidays, even though they did not work at all on those days, because they worked some during the weeks of those holidays. For example, Callaway paid the following holidays for Allison: Christmas Eve 2004, Memorial Day 2005, July 4th 2005, Labor Day 2005, Thanksgiving 2005, and New Years 2006; the following holidays for Bell: Christmas Eve 2004, New Years 2004, Memorial Day 2005, July 4th 2005, Thanksgiving 2005, and Christmas 2005; the following holidays for Cook: Christmas Eve 2004, Memorial Day 2005, July 4th 2005, Labor Day 2005, and New Years 2006; the following holidays for Lee: Christmas Eve 2004, Memorial Day 2005, July 4th 2005, Labor Day 2005, New Years 2006; and the following holidays for Morman: Christmas Eve 2004, Memorial Day 2005, July 4th 2005, Thanksgiving 2005, Christmas 2005, New Years 2006 and Memorial Day 2006.

19. Callaway also paid Allison, Bell, Cook, Lee and Morman their predetermined weekly salaries for weeks when they only worked some partial days, including leaving early on a Friday. For example, Callaway paid the

predetermined weekly salary when some partial days were worked during the following weeks for Allison: (paid \$1,600 for week ending 1/9/05, though he only worked a partial day on Friday, 1/7/05; paid \$1,600 for week ending 8/21/05, though he only worked a partial day on Friday, 8/19/05; paid \$1,600 for week ending 4/2/06, though he only worked a partial day on Friday, 3/31/05); during the following weeks for Bell: (paid \$1,600 for week ending 1/16/05, though she only worked a partial day on Friday, 1/14/05; paid \$1,600 for week ending 3/27/05, though she only worked a partial day on Friday 3/25/05; paid \$1,600 for week ending 2/5/06, though she only worked a partial day on Friday 2/3/06); during the following weeks for Cook: (paid \$1,600 for week ending 3/6/05, though he only worked a partial day on Friday 3/4/05; paid \$1,600 for week ending 10/9/05, though he only worked a partial day on Friday 10/7/05; paid \$1,600 for week ending 3/12/06, though he only worked a partial day on Friday 3/10/06); during the following weeks for Lee: (paid \$1,600 for week ending 2/13/05, though he only worked a partial day on Friday 2/11/05; paid \$1,600 for week ending 9/25/05, though he only worked a partial day on Friday 9/23/05; paid \$1,600 for week ending 2/5/06, though he only worked a partial day on Friday 2/3/06); and during the following weeks for Mormon: (paid \$1,800 for week ending 1/30/05, though she only worked a partial day on

Friday 1/28/05; paid \$1,800 for week ending 8/7/05, though she only worked a partial day on Friday 8/5/05; paid \$1,800 for week ending 3/12/06, though she only worked a partial day on Friday 3/10/06). These are only examples. There are many other examples of when this occurred in the pay records.

20. Bell and Cook claim in their affidavits that Callaway deducted meal breaks from their predetermined weekly salary. I have reviewed their payroll registers and there is no evidence of any such deductions.

21. In addition to the HealthSouth project, Callaway has other projects around the country. Consultants on those projects perform work for different companies, perform different job duties and responsibilities, and are often classified and paid differently (some exempt, some non-exempt, some have different weekly salaries, and some have different bonus plans).

22. From February 1, 2004 through February 1, 2007, approximately 553 Consultants were employed on the HealthSouth project, with over 800 employed on all projects.

23. Bell earned \$113,930 in 2005 and \$17,120 in 2006 for 9 weeks of work (\$98,916 on an annualized basis). Allison earned \$105,045 in 2005 and \$30,510 in 2006 for 16 weeks of work (\$99,158 on an annualized basis). Cook earned \$110,210 in 2005 and \$28,230 in 2006 for 14 weeks of work (\$104,856

on an annualized basis). Lee earned \$111,540 in 2005 and \$30,260 in 2006 for 14 weeks of work (\$112,394 on an annualized basis). Morman earned \$108,602 in 2005 and \$48,010 in 2006 for 25 weeks of work (\$99,861 on an annualized basis).

24. In March 2005, the Wage and Hour Division of the United States Department of Labor (“DOL”) initiated an investigation of pay practices at Callaway. The investigation covered the time period from November 28, 2003 through November 27, 2005. The investigation focused on the HealthSouth project and two employees at Callaway’s corporate headquarters in Atlanta, Georgia.

25. The DOL never questioned the manner in which Callaway calculated bonus payments, including the “docking” of bonuses discussed above. The DOL did identify isolated instances in which Callaway did not pay some Consultants for holiday absences in 2004. Callaway agreed with the DOL to tender back wages for these isolated holidays to the affected Consultants.

26. Though there were hundreds of Consultants on the HealthSouth project, the DOL identified only fourteen (14) Consultants on the project, and two employees at Callaway’s corporate headquarters, who may have been performing non-exempt job duties for certain periods of time, though they were

classified as exempt. Callaway agreed with the DOL to tender back wages to these individuals for these periods of time.

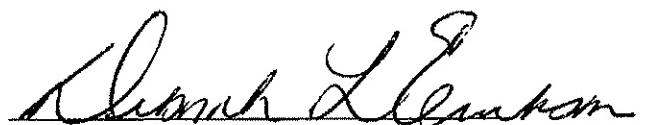
27. On or about June 30, 2006, Callaway mailed to 184 current and former Consultants a cover letter, a Form 58, and a check. Each check contained release language. Of the 184 checks, 166 were sent to current or former Consultants for inadvertently deducted holiday pay in 2004. The DOL did not identify, and Callaway did not provide payments for, any improper deductions after 2004.

28. During the next several months, more than 150 Consultants signed Form 58s and/or cashed their checks, thereby waiving FLSA rights. Indeed, nineteen (19) of the opt-in plaintiffs in this case, including affiant Mr. Lee, signed a Form 58 and/or check, thereby waiving FLSA rights. The gross amount paid to Bell was \$430. The gross amount paid to Allison was \$900. The gross amount paid to Cook was \$160. None of them cashed their checks. Morman did not receive a check. The gross amount paid to Lee was \$640. He cashed his check.

29. True and correct copies of resumes prepared by Allison, Cook, Lee and Morman are attached at Exhibit F. These are resumes that Allison, Cook, Lee and Morman provided directly to Callaway themselves.

According to 28 U.S.C. §1746, I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed this 3rd day of April, 2007.

By: 
Deborah Erickson